



# An Employer's Guide

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## To Workers' Compensation

*March 2003*

[www.ndworkerscomp.com](http://www.ndworkerscomp.com)



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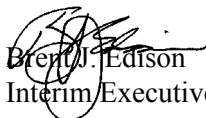
Dear Policyholder,

North Dakota Workers Compensation (NDWC) is dedicated to providing an efficient, high-quality, and easy-to-use workers' compensation system for employers and injured employees across North Dakota.

As the sole provider of workers' compensation coverage in North Dakota, we have a special duty to guarantee reasonably priced, high-quality insurance coverage. To monitor our efficiency, customer service, and service quality, we undergo an extensive performance and efficiency evaluation every two years. This evaluation is conducted by industry experts from outside NDWC, and their findings serve as guideposts to improve our operations and, ultimately, our service to you and your employees. We remain committed to continually improving to meet your evolving needs.

This guide provides brief explanations on important workers' compensation topics. If you need more detailed information, please contact us at (701) 328-3800 or 1-800-777-5033 and we will be happy to assist you.

Sincerely,



Brent J. Edison

Interim Executive Director & CEO

## *Using This Guide*

We hope this guide is helpful to you. Every effort has been made to ensure the accuracy of the information in this guide. However, changes in statutes and policies occur periodically and may render this information inaccurate. If there are conflicts between the information in this guide and the laws governing North Dakota Workers Compensation (NDWC), the laws of NDWC will prevail. If you have questions, please contact an NDWC customer service representative at (701) 328-3800 or 1-800-777-5033. If you are hearing impaired, please call (701) 328-3786.

This publication is updated and reprinted periodically. To make sure you have the current edition, please visit our web site at [www.ndworkerscomp.com](http://www.ndworkerscomp.com) (Publications section)

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# Getting workers' compensation coverage

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## *The role of North Dakota Workers Compensation*

North Dakota Workers Compensation (NDWC) manages and regulates an exclusive employer-financed, no-fault insurance system covering workplace injuries, illnesses, and death. NDWC is the sole provider and administrator of the workers' compensation system in North Dakota. In addition to collecting premium payments from employers and processing claims filed by North Dakota workers, NDWC promotes workplace safety by assisting employers in providing safe work environments for their workers. The system pays medical, disability (wage replacement), vocational rehabilitation (if medically and vocationally necessary), impairment, and death benefits as the nature of the injury requires.

General liability, health, and accident insurance are not substitutes for workers' compensation insurance. North Dakota Workers Compensation Law, with limited exceptions, requires all employers to insure their full-time, part-time, seasonal, and occasional workers.

## *Workers' compensation insurance: protection and benefits*

- When your premium is paid by the due date on your billing statement, NDWC provides you with protection against civil litigation. That means an employer with an account in good standing cannot be sued by a worker injured while in the course of employment.
- For your workers, NDWC provides benefits in relation to work-related injuries to include payments for medical expenses, disabilities, and death; awards for permanent impairment; and vocational rehabilitation services. NDWC also has a scholarship fund for spouses and dependent children of workers who lost their lives in work-related accidents.

## *Individuals who are required to obtain coverage*

Workers' compensation coverage is **mandatory for most employment**.

There are certain **exceptions**:

- Licensed real estate brokers and agents with written agreements defining them as independent contractors.
- Farm and ranch labor, certain custom operations, household domestic

workers, and employees engaged in the operation and maintenance of a place of worship.

- Independent contractors - to be considered an independent contractor, you may need to complete an Independent Contractor Verification Application provided by the North Dakota Department of Labor. Upon the approval of the Department of Labor, you would then be exempt under the workers' compensation statutes.
- Federal and railroad employees.
- Children of the employer(s) who are under the age of 22 are not required to be covered. (NOTE: Children aged 22 and older who are receiving compensation for employment must be reported as an employee.)
- Newspaper delivery personnel with written agreements between the individual and the publisher of the newspaper or shopping news that states the individual is an independent contractor.

## ***Purchasing optional coverage***

Coverage for the owners, partners, or corporate officers of a business corporation is optional. An employer may elect to purchase optional coverage for themselves, their spouse, children under the age of 22, and for any workers otherwise exempt under Title 65. This coverage is not required by law. If you have any doubt about whether you should be insured, contact NDWC's Policyholder Services Department. Coverage becomes effective upon NDWC's approval of a completed and signed optional coverage contract.

- Coverage for an owner, partner, corporate officer, spouse, or employer(s) children aged 18 - 21 will be charged an annual premium based upon the maximum taxable payroll cap.
- Coverage for the employer(s) children under the age of 18 is based upon actual wages paid.
- Coverage for the employer(s) children aged 22 and older is mandatory and based upon actual wages paid.

## ***How to obtain coverage***

To activate coverage, simply contact the Policyholder Services Department. We'll guide you through the application process making sure that your account reflects the appropriate job classifications and rates. You may also print a copy of the Application for Insurance form from our web site ([www.ndworkerscomp.com](http://www.ndworkerscomp.com), Publications section) and mail the completed form to our office. Once your application has been processed, NDWC will bill your premium based on the payroll estimate you have provided to us. For a free packet of information (State of North Dakota New Busi-



ness Registration Forms) to help you establish your business in North Dakota, please contact our office. These forms can also be accessed at [www.discovernd.com/businessreg](http://www.discovernd.com/businessreg).

### ***Failure to obtain coverage***

- Since you are required, by law, to cover your workers against injuries, you will be required to pay premium for the period you were not insured, and you may also be subject to significant penalties for failure to secure coverage.
- Additionally, injured workers may bring suit against you as an uninsured employer for damages caused by an injury during the period in which you were uninsured.

### ***The effective date of your coverage***

- North Dakota state law requires a business to make application prior to hiring workers.
- Your coverage is effective once we receive and approve the completed Application for Insurance form at either the Bismarck office or the field office in your area (*see page 32 for field office locations*).
- When you mail your application, the postmark on the envelope will determine the effective date of coverage.
- When you fax your application (701-328-3750), coverage is effective as of the date and time in which the fax is received by the NDWC fax machine.

### ***Your proof of insurance***

After either full payment of your premium or your first monthly installment, your proof of insurance is a Certificate of Premium Payment issued by NDWC.

- You may make copies of this certificate or request a duplicate certificate from the Policyholder Services Department.
- **NDWC requires** (per § 65-04-04 of the North Dakota Century Code) **that you post at your place of business your Certificate of Premium Payment and NDWC's toll-free number used to report unsafe working conditions and actual or suspected workers' compensation fraud.** The toll-free number is listed on the certificate. Failure to post this information may result in a \$250 fine.

## ***Changing or canceling your coverage***

Contact our Policyholder Services Department if any of the following changes occur to your operation:

- General nature of operation.
- The types of work being done.
- Trade name.
- Incorporation of business or change in corporate officer status.
- Subsidiaries or new locations.
- Mailing address.
- You cease having workers or are closing your business.
- Any of your workers will be working outside of North Dakota.

## ***Who is liable for payment of workers' compensation premiums?***

Sole proprietors, owners, and all partners in a partnership are liable. Officers and directors of a business corporation are liable. If the business is a limited liability company, officers, directors, managers, and governors are personally liable for the payment of workers' compensation premiums or reimbursement including interest, penalties, and costs in the event the corporation does not pay to NDWC those amounts for which the employer was liable. (N.D.C.C. § 65-04-26.1.)

A general contractor is deemed to be the employer of employees of subcontractors until the subcontractor obtains workers' compensation coverage. (N.D.C.C. § 65-01-02 (17c)).

## ***Workers' compensation insurance in subcontractor arrangements***

The principal contractor can be liable for occupational injuries to the uninsured subcontractor's workers. If you are a principal contractor:

- Be sure you have a Certificate of Premium Payment verifying that your subcontractor has workers' compensation insurance for their workers.
- If the subcontractor has provided proper coverage, the subcon-

tractor's payroll is not normally included in your payroll.

- If the subcontractor does not have coverage for their workers, you must include these workers and their wages in your payroll.
- It is the responsibility of the employer to provide a list of subcontractors at the request of NDWC.

### ***Determining independent contractor status***

If any employer or an independent contractor wants to verify independent contractor status, they should complete an Independent Contractor Verification Application provided by NDWC or the North Dakota Department of Labor. (Upon the approval of the Department of Labor, you would then be exempt under the workers' compensation statutes.)



# *All about premium*

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## ***What is premium?***

Premium is the amount you pay for workers' compensation insurance.

## ***Premium calculation and payroll reports***

Your payroll reports are used by NDWC to calculate the premium you pay for workers' compensation insurance. Upon reviewing the payroll report, premium is calculated by applying the rate for a class of employment to the amount of taxable payroll in that classification. If you have several classifications, your premium is the sum total for all classifications. The maximum taxable payroll for each worker is capped at 70% of the state's average annual wage. This amount is commonly referred to as the "wage cap." The average annual wage is established on July 1 of each year. The current cap is \$17,400 (effective 7/1/02 - 6/30/03). The current cap is also posted on our web site, under our "employer" section.

## ***Determining classifications and rates***

- Some classes of employment are inherently more hazardous than others, and our rate class system reflects that risk.
- Based on the risk, each class of employment is assigned a classification. In turn, each classification is assigned a rate. These rates reflect factors such as occupational risk, medical costs, and benefit levels.
- You can view our Classification Manual and workers' compensation rates online at [www.ndworkerscomp.com](http://www.ndworkerscomp.com) (Publications section) or contact our office for copies of these publications.

## ***How often must I submit a payroll report?***

- You must report payroll to NDWC on an annual basis.
- The annual reporting period is determined by the effective date of your account.
- NDWC will send you a report to complete, and you must return it by the due date listed on the report.
- If you fail to submit your payroll report by the due date, you will be penalized \$50. Continued failure to report payroll may lead to an additional \$1,950 penalty and result in an "uninsured" status.

## ***What is considered payroll?***

Wages, salaries, and commissions are considered payroll. For purpose of workers' compensation, payroll (remuneration) includes any wages reportable to the Internal Revenue Service as earned income. Wages include:

- Salary or hourly pay.
- Bonuses.
- Pay for holiday, vacations, and sick leave.
- Rental value of a house or apartment provided to a worker as part of pay.
- Value of meals, lodging, or other gratuities received by a worker as part of pay.
- Reportable tips.
- Overtime wages.
- Employer contributions or cafeteria and 401(k) plans.

## ***Premium audits***

NDWC audits records periodically to ensure that your workers are properly classified and that you are paying the correct premium. You may request an audit if you feel there should be changes in your job classifications. Before an audit, our auditor will let you know what records you need to make available.

## ***Premium payment options***

You may either pay your premium in a single payment by the due date or in monthly installments. If you choose to make installment payments, interest is charged on the outstanding balance. The interest rate equals the base rate posted by the Bank of North Dakota plus 2.5%.

- Minimum premium accounts (\$125) are not eligible for installment payments.
- Installment payments are limited to prepaid premiums only.
- Premiums in default are assessed penalty interest at 2% per month, 24% annually.

## ***Do workers pay a share of the premium?***

No. The law prohibits employers from deducting wages or otherwise billing workers for any part of the premium.

## ***What is my premium as an owner, partner, or corporate officer if I elect to be covered?***

Regardless of how much you make, the premium is calculated by taking the appropriate classification rate multiplied by the wage cap of 70% of the state's average annual wage.

## ***Is there a way to earn a premium discount?***

Yes. Employers who participate in NDWC's Risk Management Program (RMP) or Small Account Safety Incentive Program (SASIP) and maintain a safety program approved by NDWC earn premium discounts. *Turn to page 12 to learn more about our safety discount programs.*

## ***What is experience rating?***

- Experience rating is a projection of future losses using the employer's past claims history. Your individual experience rate directly impacts the amount of premium you will be charged.
- While the rate classification system provides for the distribution of premium to various industries and exposures, NDWC offers an experience rating program to further focus premium load within a given industry. Generally, employers with a good loss history are rewarded with premium discounts. Employers with a poor loss history are charged premium above the standard rates.

## ***Qualifying for experience rating***

Beginning with an employer's fifth year of North Dakota operations, accounts are experience rated. To qualify for experience rating, an account must have a minimum aggregate premium of \$25,000 over the five-year period. The experience rate will range from a 75% discount to a 75% surcharge.

Accounts not meeting the aggregate level are eligible for a loss-free credit. This 5% credit will be offered to accounts that have not incurred any losses in excess of the \$250 medical expense assessment during the five-year period that serves as the basis for the experience rating calculation. *Turn to page 30 (Commonly asked questions) to learn more about the \$250 medical expense assessment.*

## ***How to improve your experience rating***

Safety! Accidents happen, but fewer accidents happen in safe workplaces. Taking necessary safety steps reduces injuries and means reduced business losses, reasonable insurance rates, and safer workers. Call our Loss Control Education Unit and let them help you improve the safety of your workplace. Our staff offers evaluation, inspection, and education and training services at no cost to you.

## ***Premium products***

### **■ Deductible Program**

- An employer is able to reduce premiums in exchange for agreeing to reimburse NDWC for all losses up to a specified deductible amount.
- Eligibility for participation in the Deductible Program is based on the financial stability and resources of the employer.
- Since employers retain losses below the deductible, the total cost of such a plan is highly sensitive to losses.

### **■ Retrospective Rating Plan**

- This is a cost-plus rating plan, resulting in a premium that is highly reflective of an insured's own loss experience.
- The ultimate premium is subject to minimum and maximum premium amounts.



# *Before an injury occurs*

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## *Make safety a part of the workplace*

As an employer, you are responsible for providing a safe and healthy work environment for your workers. You can control what happens before a work injury occurs. A potential injury caught early may avoid a workers' compensation claim altogether. You can lower the chance of a work injury occurring if you make safety a part of your work culture, and many tools are available for you to help bring this about. Conduct regular walk-throughs to look at workplace conditions. Visit with workers for their ideas on how to make the job safer. Look out for potential hazards at your workplace. Some examples of hazards are:

- Toxic substances - solvents, metals, dusts.
- Physical - walkways, temperature, noise, tools, motor vehicle accidents.
- Ergonomic - poor job design increases the risk of musculoskeletal diseases.
- Biological - bloodborne pathogens.

## *Communicate safety to your workers*

Make sure new workers are thoroughly oriented to the workplace and shown how to do their jobs safely. This includes seasonal or temporary workers or those leased from an employment agency. Be sure to train your managers and supervisors on recognizing and controlling hazards and monitoring safety procedures and work habits. Review safety procedures with all workers at least annually.

## *Contact us about safety*

Our Loss Prevention Department and Loss Control Education Unit are available to assist you with safety education and training. We have loss prevention specialists located across North Dakota who can provide **free assistance** to help you provide the safest workplace possible for your workers (*see page 32 for field office locations*). They can assist you in the following areas:

- Promoting safety.
- Developing safety courses, plans, and programs.
- Responding to safety complaints.
- Responding to requests for technical assistance.
- Conducting courtesy walk-through inspections.

- Providing general safety consultations.
- Conducting accident and hazard investigations.
- Providing internal risk management services.
- Administering the Risk Management Program (RMP) and the Small Account Safety Incentive Program (SASIP).

## ***Participate in one of our safety discount programs and earn a premium discount***

### ***Risk Management Program (RMP)***

This program is an 11-step, comprehensive safety program that has been in existence since 1994. It is available to all employers regardless of premium size. Successful participation in the program yields a *5% premium discount*.

The **two optional RMP enhancements** listed below offer additional premium discounts. They are available to any employer who successfully participates in the RMP.

#### **(1) Substance Abuse Program (SAP)**

This program will yield an additional *3% premium discount* for those employers who successfully implement the program. Criteria for this program is as follows:

- Develop a written Substance Abuse Policy.
- Conduct supervisory training.
- Conduct worker educational training.
- Provide an Employee Assistance Program (EAP).

#### **(2) Designated Medical Provider (DMP)/**

##### **Early Reporting Program (ERP)**

This program will yield an additional *2% premium discount* to employers who participate. Criteria for this program is as follows:

- Select a designated medical provider(s) (DMP) for your workers.
- Provide documentation that you have notified the DMP, in writing, that they have been selected to act as your company's DMP.
- Provide documentation that all workers have been notified of the DMP selection and their right to add to the DMP list.
- Report all claims to NDWC within 7 days of injury, absent good cause.

## ***Small Account Safety Incentive Program (SASIP)***

This program is only available to employers whose annual gross premium is under \$10,000. Successful participation in this program yields an *8% premium discount*. Criteria for the SASIP is as follows:

- Develop a Company Safety Policy Statement that is reviewed annually by all workers.
- Follow basic claims management procedures when an injury occurs.
- Attend, at least annually, a seminar on workplace safety or workers' compensation claims management.
- Distribute NDWC educational mailings to all workers.

A company may participate in either the RMP (with optional enhancements) or the SASIP program, not both. For program application forms and additional information, please call the Loss Control Education Unit or visit our web site at *www.ndworkerscomp.com*.

## ***Develop a policy for injury reporting and make sure injuries are reported***

We recommend that all employers develop a policy for injury reporting and review it with all workers on a regular basis. Inform your workers what to report, who to report it to, when to report it, how to report it, and the importance of prompt reporting. As an employer, you should not make it difficult for a worker to report an injury to you. Make sure injuries are reported within your company and then file a claim promptly with NDWC. By law, you cannot deny your workers the right to file a claim with NDWC.

## ***Develop a policy for monitoring your company's workers' compensation claims***

We recommend that all employers develop a policy for monitoring workers' compensation claims and review it with all workers on a regular basis. The policy should emphasize ongoing communication between the injured worker, employer, medical provider, and NDWC through the entire claim process.

The policy should also include developing a transitional work (return-to-work) plan. Having a transitional work plan in place is important in case you have an injured worker who cannot return to their regular (preinjury) job. This plan allows injured workers who are temporarily or partially disabled to remain in the workplace in a transitional (modified or alternate) work capacity until they have recovered sufficiently to return to their regular

job. Transitional work is work that allows the injured worker to remain safely on the job, but in a modified or alternate position to allow the injured worker to “transition” into the work environment after sustaining a work-related injury. The transitional work plan encourages a safe and early return to work taking into account the injured worker’s work abilities and their injury.

- *Modified work*: the injured worker’s regular job that is modified to accommodate restrictions imposed by the doctor.
- *Alternate work*: a temporary work assignment when the injured worker is unable to perform their regular job.

When developing a transitional work plan, a detailed review of each job description should be done to determine the essential and nonessential job functions and the physical requirements associated with performing each function. It is beneficial to provide the doctor with a job description outlining the injured worker’s job duties to assist the doctor in making decisions on return-to-work issues. Your active involvement in the medical care given to your injured worker is strongly encouraged as this promotes a safe and early return to work for your worker.

By having a transitional work plan in place **before** an injury occurs, you will be better prepared in the event that you need to place an injured worker in tasks consistent with any medical restrictions imposed by the doctor **after** an injury has occurred.

### ***Post notices, giving medical care instructions***

**Employers should post - in a conspicuous place - the “Important Notice to Employees” poster** from NDWC giving workers information on what to do if they are injured on the job and the types of benefits available.

If you are participating in the Risk Management Program, you have the option of selecting a designated medical provider(s) (DMP) to care for your workers if they become injured on the job. **If you chose a DMP, you must display notice of the DMP in a conspicuous place (to inform your workers of the identity of the DMP).** You must inform your workers of their right to choose their own doctor other than the DMP you have chosen for your company. Injured workers are required to see your company’s DMP for medical care **UNLESS** they have previously informed you, in writing, of a different medical provider selection **before** any injury occurred. If an

injured worker sees your company's DMP, the worker can change providers after being treated for 60 days by the DMP. Please note that if a worker chooses their own doctor (and informs you appropriately), the injured worker will always have the option of seeing your company's DMP.

At the time of hire, and again when an injury occurs, you should provide the worker with basic information on workers' compensation coverage and benefits.

### ***Develop guidelines for investigating workplace injuries***

A person who is in a responsible position in your company should be in charge of investigating the incident that led to your worker's injury. Use each injury case as an opportunity to take a closer look at your workplace. Conduct an investigation immediately while the information is fresh in people's minds - then take the necessary corrective action to prevent the injury from happening again.

If your company does not have a policy for injury reporting or guidelines for investigating workplace injuries, call our Loss Control Education Unit and we'll help you develop them. *Turn to page 18 for specific elements to include in your investigation.*

### ***Review your company's past injuries***

You may request a loss run from our office that lists all claims and medical costs paid on your account. This information will help you recognize those areas that may be in need of improvement and avoid future losses.



# *What to do when an injury occurs*

## *Five important steps*

### *1. Assist your worker in obtaining prompt medical care.*

In an emergency – the worker should seek immediate medical care at the nearest emergency room and notify you as soon as possible thereafter.

In all other instances – the worker should inform you of the injury before seeking medical care. You should provide first aid on site, if necessary.

- At the initial medical treatment and during ongoing medical treatment, NDWC encourages you to go with your injured worker when they seek medical care. While you do not necessarily have the right to be present in the examining room during the injured worker's exam, you benefit by going along because you will better understand any work restrictions imposed by the doctor – which enables you to provide a safe return to work for your worker.
  - If your company is participating in the Risk Management Program, injured workers are required to see your company's designated medical provider (DMP) for medical care **UNLESS** they have previously informed you, in writing, of a different medical provider selection **before** any injury occurred. If an injured worker sees your company's DMP, the worker can change providers after being treated for 60 days by the DMP.
  - Require that the worker provide you with a workability assessment (C3 form) after the initial medical treatment and after all ongoing medical treatment. The workability assessment should include the nature and extent of the injury, estimated course of recovery, and a return-to-work plan with identified restrictions, if any.
- 2. File a claim with NDWC immediately after a work-related injury occurs (within 24 hours of occurrence) using one of the following three methods:*
- Online - visit our web site at [www.ndworkerscomp.com](http://www.ndworkerscomp.com) for instructions.
  - By hand - Complete / sign / date the Claim Form Packet with the worker, if possible, and mail or fax (701-328-3820) the forms to NDWC.
  - Telephonically - call 1-800-777-5033 24 hours a day / weekends / holidays. The claim form used to telephonically record the claim will be sent to the

injured worker for signature – they must return the form to NDWC as soon as possible.

***Whichever claim filing method is used, complete the claim form with your injured worker, if possible.*** Explain workers' compensation procedures to the injured worker and assist in relieving any anxieties they may have relating to the injury and their position.

**Time frames for reporting an injury:**

**NDWC encourages** injured workers and employers to immediately (within 24 hours of occurrence) file a claim with NDWC after a work-related injury occurs. Immediate notification allows for more effective management of the claim.

**The law requires** that your worker notify you within 7 days after an accident or when the general nature of the injury becomes apparent. Within 7 days of receiving notice of an injury from your worker, you are required to file a C2 form with NDWC. If you do not, NDWC may consider that to be an admission that the alleged injury may be compensable.

**3. *Conduct an investigation immediately while the information is fresh in people's minds - then take the necessary corrective action to prevent the injury from happening again.***

Your written accident investigation report should include the following elements:

- Inspection of the accident site.
- Reasons why the incident happened.
- The circumstances surrounding the incident.
- Securing evidence / take photographs.
- Interviewing all witnesses and others in the accident area and writing down their statements. Interviews should be conducted in a sensitive manner at a comfortable location.
- An outline of the necessary corrective action that will be taken to prevent the injury from happening again.

If your company does not have a policy for injury reporting or guidelines for investigating workplace injuries, call our Loss Control Education Unit and we'll help you develop them.



If the investigation suggests that your worker's injury is not your responsibility or seems questionable in nature, include a written statement explaining this when you send us the employer's portion of the Claim Form Packet (Employer's Report of Injury form - C2). If you have already submitted the C2 form to our office, please call us with your concerns.

***4. Stay in contact with the injured worker, the medical provider, and NDWC. Help the injured worker continue to feel that they are an important asset to you and your company.***

- Be involved in the medical care given to the worker and make contact with the medical provider. (A release of information should be signed by the worker if medical records are being requested from the medical provider.)

***5. If the doctor restricts your injured worker's work, provide transitional work (modified or alternate work duties).***

- Provide the worker with a written transitional job offer that outlines the proposed job, work hours, and effective date. Transitional work should be work that the worker can perform with an acceptable degree of efficiency without endangering their own health and safety or that of others.
- If you have questions regarding transitional work, please contact our Claims Department. You may also call the Job Accommodation Network for assistance. Their services are free of charge, and they can be reached at 1-800-526-7234.

## ***Claim investigation and processing***

1. On potential wage-loss claims, a claims analyst will contact your company to gather information to decide whether wage replacement benefits are appropriate - this includes verification of the injured worker's current gross wages.
2. Provide the claims analyst with your accident investigation report and any other information you want NDWC to consider. Please remember you have firsthand information regarding the injury as this is your worker and your place of business.
3. If your worker has not returned to work, you may be contacted by a return-to-work services provider who is trained to help you return your

worker to work as safely and as soon as possible, making work a part of the recovery process.

4. When a decision is made regarding claim acceptance or denial, you will receive written notification. Along with this notice, instructions will be provided for you to follow if you disagree with the decision.
5. The employer has the right to request information on the status of the claim and copies of documents from the claim file at any time.

## ***Different kinds of claims***

All claims are one of the following two types:

### **Wage-loss claim**

If an injured worker will be off work for five or more calendar days in a row or have a reduction in earnings, the claim is a wage-loss claim. The claims analyst contacts the injured worker, the employer, and the medical provider to establish a working relationship and gather additional information to help with the processing of the claim.

### **Medical only claim**

If the injured worker will not be off work for five or more calendar days in a row, the claim is a medical only claim. The processing of medical bills will begin immediately once the claim has been accepted.

## ***Keeping a claim and medical treatment on track***

Keep in touch with the injured worker as this will help them maintain a positive outlook - which helps in the recovery process. Make it a point to contact the injured worker weekly (at a minimum) to help with any questions they may have and to show them that you care and that they are important to you and your company.

It is also important to keep in touch with the medical provider so you will better understand the injured worker's condition. When the doctor says the worker is ready to return to work with medical restrictions imposed, help by making transitional work (modified or alternate job duties) available to the injured worker.

Please also promptly respond to any information requests you may receive from us as this helps us with the processing of the claim.

## ***Workers' compensation fraud***

NDWC has a responsibility to the employers and workers of North Dakota to investigate allegations of fraud. A worker, employer, or medical provider can commit fraud. In the simplest terms, fraud occurs when someone knowingly lies to obtain a benefit or advantage or to cause some benefit that is due to be denied.

We cannot stop fraud alone - if you suspect fraudulent behavior is occurring, please contact us. Anyone may leave a confidential and anonymous tip by calling the Fraud HotLine at 1-800-243-3331.



# *Helping your worker return to work after an injury*

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One of the most important things you can do to help your injured worker recover and hold down your workers' compensation costs is to help your injured worker return to work after a work-related injury. The injured worker benefits by being productive again and receiving a salary. You benefit by having an experienced and productive worker back on the job instead of drawing disability (wage replacement) benefits.

## *Working with the Claims Management Team*

Planning for an injured worker's recovery and return to work is very important. You are a member of the Claims Management Team - whose coordinated efforts help assure that the injured worker receives appropriate medical care and a safe return to work. Below are the members of the Claims Management Team and their responsibilities:

**The injured worker** - Report all injuries promptly; stay in contact with the employer, doctor, and NDWC claims analyst; attend all medical appointments and cooperate with medical care; follow medical restrictions (if imposed) both on and off the job; accept transitional (modified or alternate) work as provided by the employer if the injured worker is unable to return to their preinjury job.

**The employer** - Investigate the accident promptly; develop a transitional work plan for returning the injured worker safely to work; maintain positive communication with the injured worker to let them know that they are important to the company. If the injured worker experiences lost work time, continued medical treatment, or work restrictions, visit with the doctor to obtain the injured worker's work abilities and assess the injured worker's medical status. Stay in contact with NDWC and the return-to-work services provider so the injured worker's work abilities can be monitored and updated and the work duties adjusted accordingly.

**The doctor** - Provide prompt and appropriate care to the injured worker; provide prompt medical reports; communicate with the injured worker, employer, and NDWC; develop a treatment plan that includes using work as part of the recovery process.

**Claims analyst** - Investigate and process the claim; determine wage replacement benefits and issue checks; participate in coordinating medical treatment; assist in coordinating transitional work.

**Return-to-work services** - Depending upon the needs of the injured worker, there are three different types of return-to-work services to assist an injured worker in returning to work. The goal of return-to-work services is to return the injured worker to substantial gainful employment with a minimum of retraining as soon as possible after an injury occurs. The emphasis is placed on substantial employment with the preinjury employer in the injured worker's preinjury capacity by utilizing transitional (modified or alternate) work. Return-to-work services are provided by the following individuals:

*The Return-to-Work Case Manager.*

NDWC teamed up with six of the larger medical facilities across North Dakota to have registered nurses in place to assist injured workers who seek medical attention at their facilities and designated satellite clinics. These registered nurses evaluate care and restrictions for medical necessity and appropriateness and provide recommendations (they do not make decisions regarding claim compensability); act as a liaison between the injured worker, employer, medical provider, and claims analyst at NDWC; and coordinate transitional work.

*The Medical Case Manager.*

NDWC has registered nurses on staff who are medical case managers. These case managers are assigned to claims that involve potentially catastrophic or medically complex injuries. These individuals work, as necessary, with the claims analyst, injured worker, and medical providers to assess, plan, coordinate, and implement the options and services needed to support the injured worker in the recovery process and help them return to work.

*Vocational Rehabilitation.*

If early intervention is not successful in returning the injured worker to work with the preinjury employer, vocational rehabilitation will be assigned. Vocational rehabilitation is a service not provided by staff at NDWC, but rather by an independent contracted company. Vocational rehabilitation utilizes a worker's functional capabilities, education, employment history, work experience, and transferable skills to develop a return-to-work plan.

*The Preferred Worker Program.*

The Preferred Worker Program is designed to encourage the re-employment of North Dakota's injured workers. The program offers cost-saving incentives to North Dakota employers who hire Preferred Workers while, at the same time,

assisting injured workers in obtaining gainful employment after a work-related injury.

#### How Injured Workers Can Benefit From Participating:

- Clearly outlined job requirements - Preferred Workers can easily match their current work abilities to the Job List because the physical demands each job requires are clearly outlined by participating employers.
- Return to substantial gainful employment - This program provides a valuable tool for Preferred Workers in finding employment, taking into consideration their work abilities, education, experience, and transferable skills.

#### Program Eligibility For Injured Workers:

To be eligible to participate in the Preferred Worker Program, an injured worker must have:

- Sustained a compensable work injury in North Dakota, resulting in an obstacle in their ability to return to work.
- Not been released for, nor have returned to, regular work.
- Not refused an offer of appropriate employment with the employer of injury.

#### Incentives for Employers to Participate:

- Premium exemption - The employer will not be charged any premium expenses on the Preferred Worker's salary for up to three years from the return-to-work start date.
- Claim costs reimbursement - If the Preferred Worker sustains an on-the-job injury during the three year exemption period, NDWC will not charge the claim costs to the employer.
- Reimbursement for worksite modifications - Upon NDWC approval, participating employers will be reimbursed for worksite modifications.
- On-site job analysis - Upon employer request, NDWC will conduct an on-site job analysis.
- Experienced workers - When you hire a Preferred Worker, you benefit by having an experienced worker on the job.

#### Program Eligibility For Employers:

To be eligible to participate in the Preferred Worker Program, employers must:

- Have and maintain an account providing North Dakota Workers Compensation coverage.
- Be in good standing with NDWC.

**Note:** The employer of injury is not eligible for program participation for purposes of re-employing its own employees after a compensable work injury.

Some of the features of this program that you will find listed on our web site include:

- Job List
- Preferred Worker List
- Registration Forms
- Employment Links
- Job Seeking Workshops

This is an online program available on our web site at [www.ndworkerscomp.com/preferredworker](http://www.ndworkerscomp.com/preferredworker).

*For more information on this program, please contact:*

Randy Wegge  
Preferred Worker Coordinator  
North Dakota Workers Compensation  
500 E Front Ave  
Bismarck ND 58504-5685

(701) 328-3876 or 1-800-777-5033

E-mail: [preferredworker@wcb.state.nd.us](mailto:preferredworker@wcb.state.nd.us)



# *An employer's responsibilities*

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- Make safety a part of the workplace (call us for free assistance).
- Communicate safety to your workers.
- Develop a policy for injury reporting and review it with all workers on a regular basis. Make sure injuries are reported within your company and that a claim is filed promptly with NDWC.
- Develop a policy for monitoring your company's workers' compensation claims and review it with all workers on a regular basis.
- Post notices, giving medical care instructions.
- Develop guidelines for investigating workplace injuries. Take the necessary corrective action to prevent the injury from happening again.
- Review your company's past injuries.
- Report any type of suspected fraudulent behavior.
- Per NDWC, post your Certificate of Premium Payment at your place of business. Failure to do so may result in a \$250 fine.
- Post the "Important Notice to Employees" poster from NDWC that outlines important information for your employees.
- Maintain and submit annual payroll reports when required. The payroll report is the tool NDWC uses to classify your workers and assess your premium. Yearly submission of a payroll report is required by all employers on the anniversary date of their account. We'll send you the report to fill out and return to us.
- Pay your premium and medical expense assessments by the due date.
- Contact our Policyholder Services Department if any of the following changes occur to your operation:
  - General nature of operation.
  - The types of work being done.
  - Trade name.
  - Incorporation of business or change in corporate officer status.
  - Subsidiaries or new locations.
  - Mailing address.
  - You cease having workers or are closing your business.
  - Any of your workers will be working outside of North Dakota.

# *Avoiding unnecessary disputes*

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## *The purpose of the Office of Independent Review (OIR)*

The Office of Independent Review (OIR) provides no-cost assistance to injured workers attempting to resolve disputed issues on a claim. Advocates help avoid costly and lengthy litigation. The program opens the lines of communication between parties and offers an independent review of the claim. Advocates act on behalf of the injured worker and communicate with NDWC staff.

## *Making contact with OIR*

An injured worker typically makes contact with OIR due to receipt of the following::

- A legal order.
- A Notice of Decision (NOD).
- A Notice of Intention to Discontinue / Reduce Benefits (NOID).

An injured worker may also contact OIR:

- If 60 days have passed from the time NDWC received all the initial claim reporting forms from the injured worker, the employer, and the medical provider and a decision of acceptance or denial has not yet been made on the claim.
- If an injured worker has concerns about a vocational consultant's report (return-to-work plan).

## *Services provided by OIR*

- General information regarding workers' compensation processes.
- An explanation of the basis of NDWC's decision.
- A review of the claim to identify factors that may justify reconsideration of the claim.
- Possible resolution (with the injured worker's input) of the dispute.
- A letter outlining OIR's findings.

To dispute a decision, an injured worker must either send a written statement or e-mail ([oir@wcb.state.nd.us](mailto:oir@wcb.state.nd.us)) the disagreement to OIR within 30 days from the mailing date of the decision.

The injured worker will receive a letter outlining the review once the advocate has finished attempting to resolve the dispute. A good faith effort to resolve the dispute with OIR must be made to receive the Certificate of Completion.

If the injured worker still disagrees with NDWC after receiving the Certificate of Completion, the injured worker may request an administrative hearing. The injured worker must request a hearing within 30 days from the mailing date of the Certificate of Completion.

If the injured worker prevails in further proceedings, NDWC will pay the injured worker's attorney fees up to the limits established because they first requested assistance from the program.

### ***How to Reach OIR***

- In person: 2525 East Rosser Avenue, Suite 4 in Bismarck, ND. No appointment is necessary, but you may wish to call ahead to ensure an advocate is available to meet with you upon arrival.
- By phone: (701) 328-9900 or 1-800-701-4932
- By e-mail: [OIR@wcb.state.nd.us](mailto:OIR@wcb.state.nd.us)
- By fax: (701) 328-9911
- In writing: 2525 East Rosser Avenue, Suite 4, Bismarck, ND, 58501-5077

OIR web site: [www.ndworkerscomp.com/oir/default.htm](http://www.ndworkerscomp.com/oir/default.htm)

# ***Commonly asked questions***

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## ***May I pay for the worker's injury myself and not have the worker file a claim?***

No. You cannot deny your workers the right to file a claim with NDWC. If you pay the claim “out of pocket,” you may be assuming liability for that claim and exposing your company to future medical costs and expensive litigation. Once a claim is determined to be compensable, NDWC will pay benefits.

## ***What is a medical expense assessment?***

By law, you are required to reimburse NDWC for the first \$250 of medical expenses paid on each claim. Similar to a deductible, the initial costs of claims are transferred directly to the employers incurring the losses.

## ***When are assessment payments due?***

Once billed, employers have 90 days to pay the medical expense assessment. The employer may not bill the injured worker for any part of the assessment.

## ***What is the penalty for late payment of assessments?***

Penalties for late payments are severe. If NDWC does not receive payment from the employer within 90 days of the first billing, penalties amounting to 125% of the assessment may be added.

## ***How are disability (wage replacement) benefits paid?***

Disability benefits are paid at a rate of 2/3 of the worker's gross weekly wages at the time of disability, not to exceed the state's statutory maximum benefit. Benefit checks are mailed to the injured worker.

## ***How do injured workers' claims affect my workers' compensation account and premium?***

It depends on the severity of the injury and the number of claims recently experienced by your company. It also depends on the length of time the injured worker is off work. If you have questions regarding the impact on your premium, please contact our Policyholder Services Department.

### ***May I contact the injured worker's doctor?***

Yes. Your active involvement is strongly encouraged to promote a safe and early return to work for the injured worker. Providing the doctor with a job description that outlines the injured worker's job duties is also beneficial as it will assist the doctor in making decisions on return-to-work issues.

### ***What happens if new information has been obtained regarding an already-accepted claim?***

Please notify NDWC immediately for further investigation.

### ***What is a prior injury questionnaire?***

This is a form that is completed by the injured worker. On this form, they list all prior injuries or health problems (whether work related or not) that they have had to the area of the body that was injured at work.

### ***What is classified as a seasonal worker?***

Seasonal employment includes an occupation that has periods of 45 consecutive days of not receiving wages.

# ***NDWC field office locations***

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## ***Devils Lake***

Policyholder Services: 662-9340

Fax: 662-9310

## ***Fargo***

Loss Prevention: 298-4981 (South Fargo) 298-4982 (North Fargo)  
298-4984

Policyholder Services: 298-4980, 298-4983, 298-4994

Medical Case Management: 298-4992 298-4993

Fax: 298-4999

## ***Grand Forks (this office also provides loss prevention services for Devils Lake)***

Loss Prevention: 795-3926

Policyholder Services: 795-3925

Medical Case Management: 795-3927 795-3928

Fax: 795-3929

## ***Jamestown (this office also provides loss prevention services for Valley City and West Fargo)***

Loss Prevention: 253-6240

Fax: 253-6222

## ***Minot***

Loss Prevention: 857-7744

Policyholder Services: 857-7745

Medical Case Management: 857-7746

Fax: 857-7747

## ***Williston (this office also provides loss prevention services for Dickinson)***

Loss Prevention: 774-4303

Fax: 774-4304

## ***Main Office - Bismarck***

500 East Front Avenue

328-3800 1-800-777-5033



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## *North Dakota Workers Compensation*

500 East Front Avenue - Bismarck ND 58504-5685

(701) 328-3800 1-800-777-5033

Hearing impaired: (701) 328-3786

Fraud & Safety HotLine: 1-800-243-3331

Office of Independent Review: (701) 328-9900 1-800-701-4932

Safety / Loss Prevention: (701) 328-3886

Loss Prevention Education Unit: (701) 328-5921

Questions on safety? E-mail us at [safety@wcb.state.nd.us](mailto:safety@wcb.state.nd.us)

Filing a claim (*3 methods*):

Online: [www.ndworkerscomp.com](http://www.ndworkerscomp.com)

By hand: Complete the Claim Form Packet

Telephonically: 1-800-777-5033 (24 hours / weekends / holidays)

Fax numbers:

Claims: (701) 328-3820

Loss Prevention / Loss Prevention Education Unit: (701) 328-6028

Policyholder Services: (701) 328-3750